

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>Mosby Irrigation Company Attn: Cris Walker</p> <p>RESPONDENT</p>	<p>CONTROL STRUCTURE AND MEASURING DEVICE NOTICE</p> <p>SEAA No. 1426 DISTRIBUTION ACCOUNTS: 100593 WATER RIGHTS: 43-3743, 45-5246, 45-515</p>
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I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:

(a) each location where water is diverted from a source; and

(b) any other location required by the state engineer.

(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.

(3) The state engineer shall approve the design of:

(a) the measuring device; and

(b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...

(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:

(a) forbid the use of water until the user complies with the state engineer's requirement; and

(b) commence enforcement proceedings authorized by Section 73-2-25.

II. STATEMENT OF FACTS

1. The Respondent owns and/or uses the water under the above-referenced water rights.
2. The Respondent is responsible for the maintenance of measuring devices used to measure water diverted under the above-referenced water rights and distinguish this water from natural flow water.

3. There are times when the commissioner relies on flow measurements at the following locations:
 - Julius Park Reservoir inflow
 - Julius Park Reservoir outflow
 - Loggers Cabin flume
 - Mill Canyon flume
 - Donahoe flume
 - The flow in Deep Creek either above or below the confluence with Mosby Creek, whichever location the company chooses to maintain an operable measuring device.

The above flumes should be maintained in good working condition to enable the commissioner to obtain measurements at these locations when needed.

4. There are times during high flows when the Red Wash Diversion bypass headgate is fully opened and relatively large flows continue to be diverted into Red Wash Reservoir. There are times during wet years such as this year when large flows cannot safely pass through the Red Wash inlet canal and cannot be turned out of the canal. A headgate at the head of the canal would prevent these unwanted high flows from entering the feeder canal/Red Wash Reservoir and is required to properly operate the distribution system.
5. The flow in the Mosby Canal entering Julius Park Reservoir on July 5, 2011, was estimated to be 38 cfs. Based on our July 5th observations, the canal flow greatly exceeded 38 cfs prior to July 5th. If all the Mosby Canal water rights are in the Mosby Canal above Julius, which includes 30 cfs from Dry Fork and 15 cfs from downstream tributaries diverted into the canal, the maximum flow is 45 cfs. It is Mosby Irrigation Company's responsibility to maintain and operate the canal and flumes above and below Julius Park Reservoir in operable condition during these high flows so they do not wash out. Dry Fork diversions are only regulated by the Ashley Creek Commissioner after highwater ends. It is Mosby Irrigation Company's responsibility to regulate their canal and maintain flume capacity so the commissioner can always obtain an accurate measurement of the water at these flumes, as needed to operate the system.

III. ACTIONS REQUIRED

1. The flumes above and below Julius Park Reservoir must be properly installed or repaired so they do not wash out during high flows and function properly whenever good flow measurements are needed.
2. The Mill Canyon flume needs some cleaning of debris and cobbles in front of the flume in order to function properly.
3. The Loggers Cabin flume and Donahoe flume must be repaired and installed so good water measurements can be obtained at these locations.

4. A measuring device or measurement is needed at the confluence of Mosby Creek and Deep Creek either above or below the confluence, whichever is easiest for Mosby Irrigation Company to maintain in good operable condition.
5. Red Wash feeder canal must have an operable headgate to enable the commissioner to regulate the diversion during high flows after the reservoir fills.
6. **This work must be completed on or before November 1, 2011.**

IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
4. If determined to be in violation an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005).

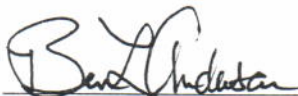
V. FURTHER INFORMATION

If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Robert W. Leake, P.E.
Regional Engineer
Vernal Office/Eastern Region
Utah Division of Water Rights
(435) 781-5327

Ben Anderson, P.E.
Water Rights Distribution Engineer
Utah Division of Water Rights
(801) 538-7469
1594 W North Temple Ste 220
P.O. Box 166300
Salt Lake City, UT 84104-6300

Dated this 17th day of August, 2011

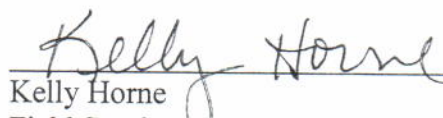


Ben Anderson, P.E.
Water Rights Distribution Engineer

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 17th day of August 2011, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Chris Walker, President
Mosby Irrigation Company
PO Box 317
Lapoint, UT 84039**



Kelly Horne
Field Services Secretary

cc: Robert Leake, Regional Engineer
Tyler McKee, Water Commissioner

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Article Sent To: (to be completed by mailer)

(Please Print Clearly) *Chris Walker*
Tyler McKee
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SEAA 1426

PS Form 152, May 2002 (See Reverse)